

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

STANLEY A. SCHELL,

Petitioner,

v.

HON. SCOTT L. BERNSTEIN,

Respondent.

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No. 4:15CV00899 ERW

**MEMORANDUM AND ORDER**

Plaintiff, a civil detainee, seeks leave to proceed in forma pauperis in this civil action under 28 U.S.C. § 1651. Having reviewed plaintiff's financial information, the Court grants the motion.

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief under § 1983, a complaint must plead more than "legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements." *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a "mere possibility of misconduct."

Plaintiff is awaiting trial in probate court to determine whether he should be civil committed. He complains that defendant, a Missouri Circuit Court Judge, has denied his right to represent himself in the action. He believes that his constitutional rights are being violated. And he seeks an order directing the state court to allow him to defend himself in the action.

"[T]he remedy of mandamus is a drastic one, to be invoked only in extraordinary situations." *Allied Chem. Corp. v. Daiflon, Inc.*, 449 U.S. 33, 34 (1980). "[T]he writ of

mandamus has traditionally been used in the federal courts only to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.” *Id.* at 35 (quotations and citations omitted).

Federal district courts are courts of original jurisdiction; they lack subject matter jurisdiction to engage in appellate review of state court decisions. *Postma v. First Fed. Sav. & Loan*, 74 F.3d 160, 162 (8th Cir. 1996). Therefore, the relief requested by plaintiff does not fall within the Court’s prescribed jurisdiction, and this action is dismissed.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s motion to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

**IT IS FURTHER ORDERED** that this action is **DISMISSED**.

An Order of Dismissal will be filed separately.

So Ordered this 22nd day of June, 2015.



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E. RICHARD WEBBER  
SENIOR UNITED STATES DISTRICT JUDGE